

THE LAW OFFICE OF

ELISA HYMAN, P.C.**USDC SDNY****DOCUMENT****ELECTRONICALLY FILED****DOC #:** _____**DATE FILED:** 2/16/2024

February 16, 2024

BY ECF

Hon. Stewart D. Aaron
 United States Magistrate Judge
 United States District Court
 Southern District of New York
 500 Pearl Street, Room 1970
 New York, NY 10007

Application GRANTED. SO ORDERED.

Dated: February 16, 2024



Re: *G.A. v. New York City Dep't of Educ. et al.*
 No. 23-cv-5735 (JHR) (SDA)

Dear Judge Aaron:

I am counsel for the Plaintiff in the above-referenced matter. I write to respectfully request an extension of time for the parties to file any agreement reached concerning electronically stored information, from February 21, 2024 to April 24, 2024. This is the first such extension request. Thomas Lindeman, Esq., counsel for Defendants, has consented to this request.

This action was brought by G.A. on behalf of herself and her minor child E.A., a student with autism, under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400, *et seq.*, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, 42 U.S.C. § 1983, and New York State law. The relief sought by Plaintiff includes, *inter alia*, implementation of relief awarded by Impartial Hearing Officers in administrative hearings concerning E.A.'s educational placement and services and attorneys' fees and costs incurred in connection with three administrative hearings and this action.

The Complaint was filed on July 5, 2023 (Docket No. 1), and Defendants' Answer was filed on September 28, 2023 (Docket No. 19). The parties submitted joint letters to Hon. Jennifer H. Rearden on October 16, 2023, November 17, 2023, December 18, 2023, and January 18, 2024 (Docket Nos. 21, 23, 25, and 27, respectively) which, collectively, reported on the parties' efforts to address Plaintiff's implementation allegations and a new issue that had arisen concerning implementation, and the parties' belief that the remaining issues in the case, including the remaining implementation claims and Plaintiff's claims for attorney's fees and costs, could be resolved and settled between the parties.

The parties submitted with their January 18, 2024 letter a proposed Civil Case Management Plan and Scheduling Order, which requested longer discovery deadlines to afford the parties time to try to settle the matter. *See* Docket No. 27 at 2; Docket No. 27-1. By Order dated January 19, 2024, Judge Rearden referred the matter to Your Honor for general pretrial management and settlement. Docket No. 28. By Order dated January 22, 2024, Your Honor approved the parties' proposed Civil Case Management Plan and Scheduling Order and directed the parties to submit a

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joint status letter by April 24, 2024 if the action has not been resolved by that date. Docket No. 29 at 7.

Paragraph 9(f) of the approved Civil Case Management Plan and Scheduling Order states: “The parties shall discuss, if and as appropriate, provisions for the disclosure, discovery, or preservation of electronically stored information (‘ESI’). Any agreement reached between the parties concerning ESI is to be filed within 30 days of the date of this Order.” Docket No. 29 at 3. Thirty days from Your Honor’s January 22, 2024 Order approving the proposed Civil Case Management Plan and Scheduling Order is February 21, 2024.

The parties have discussed the ESI provision and agreed to the instant request to the Court to extend the deadline in light of the parties’ efforts to settle the matter. As previously represented, counsel for Plaintiff provided counsel for Defendants with additional documentation concerning attorney’s fees and costs within one week of the parties’ submission of their proposed Civil Case Management Plan and Scheduling Order, and counsel for Defendants thereafter has taken steps to secure the Comptroller authority needed for settlement. *See* Docket No. 27 at 2. The parties anticipate being able to discuss settlement terms in the coming weeks and remain hopeful that the case can be settled without the need for formal discovery.

Accordingly, I respectfully request that the deadline to file any agreement reached by the parties concerning ESI be extended to April 24, 2024, the date by which the parties must submit to the Court a joint status letter if the action has not been resolved. If this request is granted, no other current deadlines would be affected.

I thank the Court for its consideration of this request.

Respectfully submitted,

/s

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cc: **BY ECF**
All Counsel of Record